

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUSTIN BREITHAUPT,

Plaintiff,

vs.

MATT NEWBERG, JOHN HENRY, AND
THE GARFIELD COUNTY SHERIFF'S
OFFICE

Defendants.

NO. 2:14-cv-344-JLQ

ORDER REAFFIRMING ORDER TO
STAY AND CLOSURE OF FILE

On November 5, 2014 the court Ordered Mr. Breithaupt's case closed pending resolution of his state criminal prosecution and a showing of good cause for re-opening. Mr. Breithaupt filed eight more documents with the court, resulting in an Order Restricting Filing on November 13, 2014. A copy of the Garfield County District Court record from Mr. Breithaupt's prosecution, State of Washington v. Justin Chad Breithaupt, 14-c08003 has been delivered to the court.

According to the Judgment and Sentence, Mr. Breithaupt was convicted on November 3, 2014 of Assault in the Fourth Degree - Domestic Violence, a gross misdemeanor. He was sentenced to 364 days in jail, with 361 days suspended, resulting in three days to be served. District Court Judge John R. Henry additionally noted: "Imposition of jail time is suspended for 60 days to afford defendant time to pursue appeal. If no appeal taken, Defendant is to report to jail on 01/09/15 at 6:00 p.m., with release on 01/11/15 at 6:00 p.m."

The U.S. District Court for the Eastern District of Washington is not the proper venue or jurisdiction for Mr. Breithaupt to appeal his state court misdemeanor conviction. Rather, should Mr. Breithaupt wish to pursue an appeal of his state court conviction, he

1 must file that appeal within the Washington State court system. This court therefore does
2 not find good cause to re-open Mr. Breithaupt's federal case.

3 **IT IS HEREBY ORDERED:** Plaintiff's Complaint (ECF No. 3 & 7) and the
4 claims therein remain STAYED. The Clerk shall keep this file closed subject to
5 reopening upon only on good cause shown after resolution of all matters and appeals
6 related to the state court criminal proceedings. The Plaintiff herein, Justin Breithaupt
7 shall file not further documents in this matter until the conclusion of all state court
8 proceedings and available appeals.

9 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order and furnish
10 a copy to Plaintiff and Garfield County Prosecuting Attorney Matt Newberg.

11 **DATED** this 19th day of November, 2014.

12 s/ Justin L. Ouackenbush
13 JUSTIN L. QUACKENBUSH
14 SENIOR UNITED STATES DISTRICT JUDGE
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